

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of : McCormack, Tony
Serial No. : 09/878,874
Filed : June 11, 2001
For : Establishing Telephone Calls at Specified Times
Examiner : Haresh N Patel
Art Unit : 2454
Customer Number : 23644
Confirmation No. : 2638

**SUCCINCT STATEMENT IN SUPPORT OF PRE-APPEAL
BRIEF REQUEST FOR REVIEW**

Honorable Director of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Pre-Appeal Brief addresses only the patentability of the pending independent claims 1 and 11. It will be appreciated that should the independent claim be shown to be patentable over the cited references, dependent claims therefrom are by definition patentable over the same references.

SUMMARY

The rejection of the claims is based on a construction of their scope that is broader than their ordinary meaning suggests.

DETAILED ARGUMENT

In the final action of August 18, 2009 claims 1 and 11 are rejected as being anticipated by Drozdewicz 2002/0091769 and by Johnson 6,272,214 and by Doganata 6,798,753 "as per the office action dated 1/13/2009" (see paragraphs 3, 4, 5 of the action of August 18, 2009). Claims 1 and 11 are also rejected as being unpatentable over Summers et al 6,876,734 in view of Linden 6,549,773.

All of the cited references except for Linden are concerned with telephone conferencing.

The presently claimed method and application are not primarily concerned with conferencing but rather are concerned with enabling a user to be called at the appropriate call destination according to the current time. This is useful, for example, if the user is contactable at different call destinations at different times of day. The web server receives the call destinations and associated time ranges and then selects the call destination according to the current time.

Claim 1 is reproduced below with the claim limitations at issue underlined. The same limitations appear in claim 11.

1. A method of establishing a telephone call over a communications network between a call source and one of a plurality of call destinations using a web based telephony application hosted by a web server, said method comprising the steps of:

(i) receiving at the web server a uniform resource identifier (URI) comprising information about the plurality of call destinations and time ranges associated with said plurality of call destinations;

(ii) arranging the web based telephony application to access the URI in response to a call event to compare a current time with the associated time ranges to select an appropriate one of the plurality of call destinations according to the time comparison and to instruct a telephony apparatus in the communications system to establish said call to said selected one of the plurality of call destinations.

Clear Error: The examiner is incorrect that **Drozdzewicz** or **Jonsson** or **Doganata** or **Summers** in combination with Linden teach all of the above-noted limitations of claim 1. In the following, references to page and paragraph numbers are taken from the documents as published by the USPTO.

Drozdzewicz describes a method of establishing a conference call among a plurality of participants and a subscriber in a telecommunications system (see first sentence of paragraph 0009). According to this method, as described in claim 1 of Drozdzewicz, a unique URL is assigned to the conference which is provided to the web browser of the subscriber. The URL and a set time for the conference are then delivered to each of the end users from the web browser of the subscriber. The end users provide end-point identification information via the URL and are

connected to the conference through the telecommunications system in response to the provided end-point information.

- Drozdiewicz does not disclose a method of establishing a telephone call between a call source and one of a plurality of call destinations. It discloses a method of establishing a conference call among a plurality of participants and a subscriber.

According to Drozdiewicz (paragraphs 0036 to 0038) a participant wishing to take part in a conference clicks on a distributed hyperlink (the URL referred to above) and is then requested to provide end-point information, such as the telephone number on which the participant wishes to be called. According to paragraph 0040, each end-user can enter end-point identity information that is most convenient. As noted in paragraph 49, end-users click the URL “when they want the system to call them, not before”. As noted in paragraph 0050, it is left to the end-user “to control, in real-time, when to be connected to the conference”.

- Drozdiewicz does not disclose receiving at a web server a URI comprising information about a plurality of call destinations and time ranges associated with said plurality of call destinations. There is no disclosure in Drozdiewicz of time ranges associated with any of the call destinations provided by the participants.
- It follows from the foregoing that Drozdiewicz cannot disclose the final step of claim 1, in particular comparing “a current time with the associated time ranges to select an appropriate one of the plurality of call destinations according to the time comparison”.

The system of Drozdiewicz does not require any determination of which of a plurality of call destinations to use dependent on a comparison of the current time and time ranges associated with the call destinations. In Drozdiewicz the end users determine when and where they want to be called.

Jonsson also relates to the provision of a conference or “telemeeting”. According to column 2 line 37 intended participants are invited to the meeting by including a unique identifier (e.g. telephone number or URL) along with a notification message. The participant then uses the unique identifier to be connected to the telemeeting. In the specific embodiment described in column 4 at lines 8 to 11 at least one of a plurality of phone numbers for an upcoming meeting session is allocated for a predetermined period of time.

- As with Drozdewicz, Jonsson does not disclose a method of establishing a telephone call between a call source and one of a plurality of call destinations. It discloses a method of establishing a conference call among a plurality of participants and a subscriber.
- Jonsson does not disclose receiving at a web server a URI comprising information about a plurality of call destinations and time ranges associated with said plurality of call destinations. In Jonsson, a service node allocates time ranges (i.e. call durations) to call destinations (telephone numbers) associated with a particular conference.

In the system of Jonsson, the onus is on the participants to call into the conference. It is not the case that a web server or anything similar receives call destination information and then establishes a call. In this respect Jonsson is less relevant than Drozdewicz.

- It follows from the foregoing that Jonsson cannot disclose the final step of claim 1, in particular comparing “a current time with the associated time ranges to select an appropriate one of the plurality of call destinations according to the time comparison”.

In Jonsson there is no selection by a web server or anything similar of an appropriate call destination according to the current time.

Doganata describes a system and method for providing automatic scheduling and establishment of telephone conferences over a network such as the Internet. A user inputs the information to a desktop application. The conference may be scheduled to dial out to the participants. In that case a conference service provider receives the telephone numbers of the participants and starts dialling out to the participants (see abstract). The service provider may also return a dial-in number and password to be distributed to participants so that users may dial in to the conference.

Doganata is no more relevant than the references discussed above.

- As with Drozdewicz, Doganata does not disclose a method of establishing a telephone call between a call source and one of a plurality of call destinations. It discloses a method of establishing a conference call among a plurality of participants and a subscriber.
- Doganata does not disclose receiving at a web server a URI comprising information about a plurality of call destinations and time ranges associated with said plurality of call destinations. There is no disclosure of a web server or anything similar to a web server receiving a plurality of call destinations and associated time ranges.

- It follows from the foregoing that Doganata cannot disclose the final step of claim 1, in particular comparing “a current time with the associated time ranges to select an appropriate one of the plurality of call destinations according to the time comparison “.

The language of claim 11 is similar to the language of claim 1 and therefore the foregoing remarks apply equally to claim 11.

Summers discloses a system for scheduling a conference between callers in which a timeslot may be allocated to a caller (see top of column 5). There is no suggestion to provide a plurality of call destinations and time ranges associated with said plurality of call destinations which is then used to select which one of the call destinations is to be used for the establishment of the call. Therefore Summers is no more relevant than the references discussed above. Linden is simply cited to show the use of a URI.

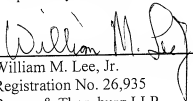
Conclusion

The examiner has committed a clear error in rejecting claims 1 and 11 as being anticipated by Drozdewicz or Jonsson or Doganata. The rejection under 35 U.S.C. 102 (e) is improper and should be withdrawn. The examiner has also committed a clear error in rejecting claims 1 and 11 as being unpatentable over Summers in view of Linden. The rejection under 35 USC 103(a) is improper and should be withdrawn.

It is therefore submitted that the Examiner's rejections of the claims of this application are untenable as has been consistently argued by the applicant, and were this application to proceed to the Board of Appeals and Interferences, the Examiner would clearly be reversed. The results of this review and therefore awaited.

February 15, 2010

Respectfully submitted,



William M. Lee, Jr.
Registration No. 26,935
Barnes & Thornburg LLP
P.O. Box 2786
Chicago, Illinois 60690-2786
(312) 214-4800
(312) 759-5646 (fax)